REMARKS

Claims 3-5 and 12-25 are pending in the present application prior to the current amendments. Claim 12 has been canceled. Claims 26-35 are newly entered.

Claims 3-5 and 13-35 are in condition for allowance. Notice thereof is respectfully requested.

Inappropriate Finality

Applicant respectfully submits that the final rejection is premature and request withdrawal thereof. In accordance with MPEP 706.07(a) "*a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)*".

The art is newly cited.

Applicants request withdrawal of finality.

Newly Submitted Claim 12

Claim 12 is withdrawn from consideration as being directed to a non-elected invention. Claim 12 is canceled herein.

Claim Rejections - 35 USC § 112, second paragraph

Claim 22 is rejected under 35 U.S.C. 112, second paragraph as being indefinite. Claim 22 is amended herein thereby rendering the rejection moot.

Claim Rejections - 35 USC § 103

Claims 3-5 and 13-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishi et al. (U.S. 5,525,670) in view of "Polymer Chemistry".

Nishi et al. is cited as disclosing a coating composition comprising an acrylic resin particle prepared in a manner similar to the present claimed invention.

Nishi et al. is cited as teaching that molecular weight can be adjusted using dimers as chain transfer agents. What Nishi et al fails to teach, and Seymour provides no further guidance in, is particle size control using the specific combination of ranges claimed. Particle size control is difficult, particularly at small sizes of the present invention. Size dispersion is also difficult to control and this is enhanced in the present invention.

The rejection of claims 3-5 and 13-25 is improper and removal is respectfully requested.

Claims 3-5 and 13-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obayashi et al. (U.S. 6,048,924).

Obayashi is cited as disclosing a water born resin obtained by emulsion polymerization. Obayashi further describes the use of dimers for control of molecular weight. The present invention describes controlling particles size which is independent of molecular weight (see

Examples 3-5 for example). Obayashi provides no details for specifically being able to control particle size.

The rejection of claims 3-5 and 13-25 under 35 U.S.C. 103(a) as being unpatentable over Obayashi et al. (U.S. 6,048,924) is improper and removal is respectfully requested.

CONCLUSIONS

Claims 3-5 and 13-35 are pending in the present application. All claims are in condition for allowance. A notice of allowance for claims 3-5 and 13-35 is respectfully requested.

Respectfully submitted,

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Joseph T. Guy, Ph.D.
Agent for Applicants
Registration Number 35,172
NEXSEN PRUET JACOBS & POLLARD, LLC
P.O. Box 10648
Greenville, SC 29603
Telephone: 864-370-2211
Facsimile: 864-282-1177